

**REMARKS**

**Summary of the Office Action**

Claims 34-69 are pending in this application.

The Examiner alleged that the Information Disclosure Statement filed on February 26, 2008 ("IDS") failed to comply with 37 C.F.R. § 1.98(a)(2) for failing to include a legible copy of each cited foreign patent document.

Claims 34-69 have been rejected under 35 U.S.C. § 103(a) as being obvious from Ohno et al U.S. Patent Application Publication No. 2001/0028782 ("Ohno") in view of Ismail et al. U.S. Patent Application Publication No. 2003/0118323 ("Ismail").

**Summary of Telephonic Discussion Regarding the IDS**

On March 18, 2009, the undersigned and the Examiner had a telephonic discussion regarding the IDS. The Examiner agreed to reconsider the references that were not considered in the IDS, as well as the first Foreign Patent Publication not initialed on the Supplemental IDS filed on October 2, 2008.

**Summary of Telephonic Interview**

Applicants would like to thank the Examiner for the courtesies extended during the March 19, 2009 telephonic interview with Gall Gotfried (Reg. No. 58,333) and the undersigned. During the interview, applicants discussed the claimed invention and Ohno, as well as proposed amendments to claims 34, 43, and 55. The Examiner agreed that the amendments

(shown above and discussed below) would overcome the outstanding rejections over the prior art of record.

Summary of Applicants' Response

Applicants have amended claims 34, 43, and 55 to more particularly define the claimed invention. Applicants respectfully submit that these amendments do not add any new matter and are fully supported by the originally-filed application - see, e.g., ¶¶ 105-106 of applicants' specification. The Examiner's rejections are respectfully traversed.

Applicants' Response

The Examiner rejected applicants' claims 34-66 as being obvious from Ohno in view of Ismail. The Examiner's rejections are respectfully traversed.

Applicants' amended independent claims 34, 43, and 55 are directed towards, *inter alia*, a video recorder, a method, and computer readable storage media for scheduling the storage of shows on a storage device using at least one tuner. A determination is made as to whether there is a tuner conflict when (1) at least two shows are scheduled for storage on the storage device using at least one tuner at the same time, and (2) the at least two shows are pending issuance of a storage command before being stored. Before issuance of the storage command, the availability of at least one other tuner in a network of tuners is determined in response to the determination that there is a tuner conflict.

Ohno relates to a digital TV broadcast receiving apparatus (a "self tuner") that is connected to other digital TV broadcast receiving apparatus through external interfaces and a connection bus (Ohno, ¶ 45). When a user of Ohno is watching a program on a first channel and recording a program on a second channel, a user may request that a program on a third channel be recorded (Ohno, ¶ 71). Ohno then determines whether the third channel is present in the radiofrequencies ("RFs") currently available at a self-tuner. If the third channel is not available, the self-tuner sends a request to other connected tuners to determine if broadcast resources can be shifted to the self-tuner. See Ohno, ¶ 73 and FIG. 6.

Applicants respectfully submit that, as acknowledged by the Examiner, Ohno and Ismail, whether taken alone or in combination, do not show or suggest determining there is an another tuner available in a network in response to determining that there is a tuner conflict occurring when at least two shows, scheduled for storage simultaneously using the same tuner, are pending issuance of a storage command before being stored, as specified by applicants' claims 34, 43, and 55. Instead, Ohno determines the availability of another tuner in response to a user request to record a third program while watching a first program and recording a second program, which is not in response to determining a conflict between two shows that are pending issuance of a storage command before being stored. In particular, the alleged conflicts for which tuner availability are determined in Ohno are between either (1) a requested recording and a currently watched program, or (2) a program being recorded while a request to record another

program is received. Moreover, Ohno fails to satisfy the second condition because in Ohno at least one show is already being recorded when tuner availability is determined. Nowhere does Ohno show or suggest determining availability of a tuner for a tuner conflict between at least two shows that are scheduled for storage and are pending issuance of a storage command before being stored, as required by applicants' claims 34, 43, and 55. Accordingly, Ohno does not show or suggest the above-mentioned feature of applicants' claims. Ismail does not make up for this deficiency of Ohno because it does not show or suggest determining an availability of at least one other tuner in a network of tuners. For at least this reason, neither Ohno nor Ismail, whether taken alone or in combination, shows or suggests each and every element of applicants' claims 34, 43, and 55. Accordingly, applicants respectfully request that the Examiner's rejections be withdrawn.

Further, applicants' respectfully submit that the claimed invention represents a patentable improvement over Ohno and Ismail, as it generates solutions to a tuner conflict by examining availability on a network of tuners before the shows in conflict are stored. Nowhere does the prior art of record consider or provide a solution to such a problem. For at least this additional reason, applicants' claims are allowable over the combination of Ohno and Ismail.

#### Conclusion

In view of the foregoing, claims 34-69 are allowable. This application is therefore in condition for allowance.

Appl. No. 10/605,246  
Non-Final Office Action of 10/28/08  
Amendment dated: 03/30/09

Reconsideration and prompt allowance of this application are accordingly respectfully requested.

Respectfully submitted,  
/Matthew S. Bertenthal/

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